**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.28003 of 2018
Decided on : 05.03.2019

M/s R.J.Traders ...... Petitioner

Versus

Bank of India ...... Respondent

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Ms. Mehak Sawhney, Advocate for
Mr. Vinod S. Bhardwaj, Advocate
for the petitioner.

Mr. K.S.Rekhi, Advocate
for the respondent.

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Manjari Nehru Kaul, J.

The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of writ in the nature of Certiorari for setting aside/quashing the impugned notices dated 26.06.2018 (Annexure P-5) and 17.09.2018 (Annexure P-8) issued by the respondent-bank.

2. Brief facts of the case are that the respondent-bank had sanctioned the Cash Credit Limit of ₹ 25 lakhs to the petitioner-firm on 16.03.2015 for business purposes against hypothecation of stocks and the collateral security of the property forming part of Khasra No.33//8, 13 min, hadbast No.347, situated at Wakia Rakba village Heir, Tehsil and Distt. Amritsar, House Pvt. No.14, Palm Lane Palm Grove, Ajnala Road, Amritsar having length 85 feet, width 40 feet, total area measuring 377 sq. yards

owned by Smt. Monika Mehra.

3. According to the petitioner, it had been regularly paying the monthly installments but due to demonitization and implementation of new tax policies, it could not maintain its financial discipline as a consequence of which, its loan account was classified as Non Performing Asset on 31.03.2018. Thereafter, the respondent-bank initiated proceedings under Securitisation and Reconstruction of Financial Assets and of Security Interest Act, 2002 (in short 'the Act') which culminated in possession notice dated 17.09.2018 (Annexure P-8) for taking physical possession of the mortgaged property. Feeling aggrieved, the present petition has been filed.

4. Vide order dated 31.10.2018, notice of motion was issued in the following terms:

> *"Learned counsel for the petitioner inter alia submitted that the Bank had sanctioned the Cash Credit Limit (in short 'CC Limit') of ₹ 25.00 lakhs. Referring to Annexure P-1, the said CC Limit had exceeded by approximately ₹ 2.00 lakhs.*
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> *In order to show the bona fides of the petitioner to bring the CC Limit within the disbursing limit, learned counsel for the petitioner has produced a cheque bearing No."082746", dated 31.10.2018, for a sum of ₹ 5.00 lakhs, in Court today. The photocopy of the aforesaid cheque is taken on record, however, the cheque in original has been returned to the learned counsel for the petitioner with the direction to deposit the same with the respondent Bank within seven days. The Bank shall encash the aforesaid cheque without prejudice to its rights in the pending writ petition.*
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> *Notice of motion to the respondent for 07.12.2018.*

Notice regarding stay as well.

Mr. K.S. Rekhi, Advocate, accepts notice on behalf of the respondent-caveator and prays for time to file reply.

The photocopy of the complete paper has already been supplied to the learned counsel for the respondent.

Status quo be maintained till the next date of hearing.

Reply be filed before the said date of hearing with copy in advance to the counsel opposite."

5. Learned counsel for the petitioner submitted that the petitioner is ready and willing to clear the outstanding dues or to regularize its account within a reasonable period.

6. After hearing learned counsel for the parties, perusing the petition and without expressing any opinion on the merits of the case, the present writ petition is disposed of with the following directions:

1. The petitioner shall approach the respondent-bank within 15 days from the receipt of certified copy of this order by filing a detailed and comprehensive representation for clearing the outstanding dues or to regularize the loan account.
2. The petitioner shall deposit a draft amounting to ₹ 2 lakhs along with the representation.
3. Respondent-bank shall consider the representation submitted by the petitioner sympathetically in accordance with law, after affording an opportunity of hearing to the petitioner and pass a speaking order.
4. The decision on the representation shall be taken at the

earliest by the respondent-bank but not later than one month from the receipt of such representation.

5. It is clarified that in case the petitioner fails to submit its representation or fails to deposit the draft of ₹ 2 lakhs within the specified time, the respondent-bank would be at liberty to proceed in accordance with law.

7. Meanwhile, the interim protection granted by this Court vide order dated 31.10.2018 shall be maintained till a decision is taken by the respondent-bank on the representation submitted by the petitioner. However, it is clarified that the interim protection shall not be construed as an expression of opinion on the merits of the case by this Court.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

05.03.2019
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No